

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

CORBEY JONES,
Plaintiff,

vs.

Civil Action No. 2:22-CV-93-KS-MTP

JONES COUNTY, MISSISSIPPI et al.,

Defendants.

MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

Pursuant to Fed. R. Civ. Proc. 15 and 17, the Plaintiff has filed a motion for leave to file a Second Amended Complaint (SAC).¹ The amendments in the new complaint would accomplish four objectives:

First, the SAC would add the Estate of Andrew Wesley Jones, the decedent, as a Plaintiff along with the existing Plaintiff, Corbey Jones, who is Andrew's father. The Estate has now been opened, letters of administration have been issued (see attached Exhibit 1), and the Estate can now be added as a party.

Second, the SAC would clarify and reiterate that this case raises both wrongful death and survival claims.

Third, the SAC would state that Plaintiff Corbey Jones, the decedent's father, is bringing this case not solely for his own benefit but also for the benefit of other parties concerned, specifically Andrew's siblings.

¹ The undersigned has contacted counsel for Defendants, and they have indicated that at least some of the Defendants will oppose the motion for leave to file the SAC.

Fourth, the SAC clarifies that although HIV by itself did not cause Andrew's death, it suppressed his immune system so that he was unable to fight off secondary infections that led to this death, and in that sense, HIV was the root cause of his death.

The reasons for these amendments are discussed in the memorandum that is submitted in support of this motion.

The proposed SAC is attached as Exhibit 2 . The new language in the SAC is set forth in bold. The specific additions are as follows:

- The Estate of Andrew Wesley Jones is named in the caption
- Paragraph 3 includes a new sentence that reads: "He brings this claim for the benefit of himself and all parties concerned, specifically the siblings of Andrew Wesley Jones. Those siblings are Bethany Hinton, Cera Thompson, and Carey Jones."
- Paragraph 4 is a new paragraph that names the Estate of Andrew Wesley Jones as a plaintiff.
- All subsequent paragraphs are renumbered accordingly.
- Paragraph 72 adds the words "and his pre-death suffering" to the end of the second sentence, adds new third and fourth sentences to clarify the role that HIV played in the chain of causation that led to Andrew's death, and adds the words "and prevented or mitigated his pre-death suffering" to what is now the end of the fifth sentence. The first four sentences of the revised paragraph 72 (previously paragraph 71), with the new sentences and language in bold, reads as follows:

Although HIV does not itself cause death, advanced HIV infection lowers a person's ability to fight off secondary infections, which often lead to death. Andrew was clearly suffering from a secondary infection that resulted in his death on January 9, 2021 **and his pre-death suffering. Because Andrew's HIV was untreated, it had diminished his immune system such that he could not fight off secondary infections, one or more of which resulted in his death and his pre-death suffering. Thus, while HIV**

by itself did not cause the death, the untreated HIV was the root cause of the death because it led to the infection or infections that actually killed him and led to his pre-death suffering.

- Paragraph 73 adds the words “and his pre-death suffering” to the end of the first sentence and the words “and his pre-death suffering would have been mitigated” to the middle of the second sentence.
- Paragraph 74 adds the words “and pre-death suffering were.”
- Paragraphs 75, 77-79, 85, and 90 add the words “and pre-death suffering.”
- Paragraph 91 adds the words “(ie. survival action)” to the first sentence and adds two new sentences after the first one. The new sentences read as follows:

Plaintiffs seek damages for the loss of society and companionship, love and affection, financial support, household services, and care, comfort, and guidance; mental and emotional anguish; and all compensatory damages available under the law to all who are entitled to seek such damages for the wrongful death of Andrew Wesley Jones. Plaintiffs also seek damages for all pre-death pain and suffering incurred by Andrew Jones.

A memorandum is submitted in support of this motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing was filed on the ECF system which will electronically serve all Counsel of Record on this 3rd day of August, 2023.

s/ Robert McDuff
Co-Counsel for Plaintiff